

KENTUCKY DEPARTMENT OF EDUCATION
STAFF NOTE

Action/Discussion Item:

702 KAR 7:065, Designation of Agent to Manage High School Interscholastic Athletics and Revisions in Kentucky High School Athletic Association Bylaws and Due Process Procedure (Final) (Being reconsidered due to request by the Administrative Regulation Review Subcommittee; Was last approved by the KBE in February 2008)

Applicable Statute or Regulation:

KRS 156.070
702 KAR 7:065
KHSAA Bylaws

History/Background:

Existing Policy. 702 KAR 7:065 (included as attachment “A”) designates the KHSAA as the entity to manage interscholastic athletics. This regulation also requires that the Kentucky High School Athletic Association (KHSAA) conduct a biennial review of its Constitution and Bylaws, and such was done during the later months of the 2006-2007 school year and the early meetings of the 2007-2008 school year by the KHSAA Board of Control.

The proposed changes that received the requisite 2/3 vote of the membership and the associated documents to be incorporated by reference within the regulation were approved by the Kentucky Board of Education (KBE) at its February 2008 meeting and included in the documentation submitted to the Legislative Research Commission (LRC) following the KBE's approval. The administrative regulation review process has proceeded, including the public hearing and the review by the LRC Administrative Regulation Review Subcommittee. However, during the review by the LRC Administrative Regulation Review Subcommittee, a formal objection was raised to proposed changes in the KHSAA bylaws. By letter dated April 15, 2008, the co-chairs of the Administrative Regulation Review Subcommittee (ARRS), Senator Richard Roeding and Representative Robert Damron, voiced concern over two provisions within the proposed bylaws as follows: (1) An objection was raised involving an inclusive statement in KHSAA Bylaw 6 that stated “The KHSAA shall not recognize as grounds for a waiver of the period of ineligibility an argument that the educational needs of the transferring students would be better served through a transfer.” While acknowledging that this stipulation may help in the prevention of recruitment of athletes, the legislators indicated that as a policy statement it appears to be in contradiction with the academic mission of the schools; (2) In addition, Senator Roeding and Representative Weston expressed written objection to the proposed amendment in Bylaw 6 that would have penalized student(s) who had participated at the varsity level while enrolled below grade nine, and then changed to a different school without qualifying for a bylaw 6 exception.

Based on these written objections, the KHSAA Board of Control at its April 2008 meeting directed the KHSAA Commissioner to request that the Kentucky Board of Education delete the provisions referenced above and resubmit the remaining bylaws of the Association to the ARRS for approval. The revised bylaws (included as attachment “B”) are presented showing strikethroughs of the two provisions objected to by AARS. The KHSAA Board of Control noted it was reiterated in the April 15, 2008, letter from Senator Roeding and Representative Damron, that the ARRS would strongly support future amendments to KHSAA rules which would appropriately penalize adult rule breakers, without interfering with basic education options of the parents.

At its May 2008 meeting, the KHSAA Board of Control approved sweeping changes to the KHSAA Due Process Procedure (included as attachment "C"; new language is underlined and language to be deleted contains strikethroughs), which will expedite the student eligibility appeal process as recommended by the KBE's Commission on Interscholastic Athletics (CIA). (See other staff note titled "Status Report on KHSAA Responses to the Major Recommendations from the Commission on Interscholastic Athletics Report" for KHSAA's complete response to the CIA Report.) The revised procedure will shift the Board of Control's role from dealing with specific individual student cases to handling major school penalties for rules infractions. The major changes to the Due Process Procedure to streamline it and still comply with KRS Chapter 13b are as follows:

- KHSAA staff (one of the four Assistant Commissioners) makes the initial eligibility ruling when an appeal occurs.
- A Hearing Officer next issues a recommended order.
- The Agency Head (KHSAA Commissioner) issues the final order.
- The Due Process Procedure will be reviewed on an annual basis for consideration of further revisions.

NOTE: KHSAA will pilot a program that utilizes local regional committees for research into specifics to attempt to have the complete information prior to the first ruling.

The other responses to the recommendations from the CIA report are dealt with in a separate agenda item on the June agenda.

The Board of Control has requested that the Kentucky Board of Education give immediate approval to the proposed changes to the bylaws and due process procedure so that they may be implemented for the 2008-2009 school year, provided they receive ARRS approval.

Staff Recommendation and Rationale:

The staff of the KHSAA certifies that the Board of Control has taken action on these items as documented by the minutes of Board of Control meetings. Approval of these additional changes to the bylaws and due process procedure will allow the regulation to be reconsidered by the ARRS and will allow immediate implementation of some of the recommendations from the KBE's CIA report.

Groups Consulted and Brief Summary of Responses:

KHSAA Board of Control
Local Superintendents Advisory Council

The Board of Control has acted on the attached items and recommends them to the KBE. The Local Superintendents Advisory Council will provide input on the proposed changes at their June meeting.

Impact on Getting to Proficiency:

Athletics contribute to the overall physical health of students and therefore affect their ability to perform academically.

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Recommending Contact Person

Commissioner of Education

Date:

June 2008